



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Paper No.

**COPY MAILED**

**NOV 14 2007**

**OFFICE OF PETITIONS**

BARNES & THORNBURG LLP  
11 SOUTH MERIDIAN  
INDIANAPOLIS IN 46204

|                            |   |                              |
|----------------------------|---|------------------------------|
| In re Application of       | : |                              |
| Frederick L. Bixler, Doug  | : | DECISION ON RENEWED PETITION |
| Coners, and Don Rochow     | : | PURSUANT TO 37 C.F.R.        |
| Application No. 10/752,074 | : | \$ 1.183 AND TWO SECOND      |
| Filed: January 5, 2004     | : | RENEWED PETITIONS PURSUANT   |
| Title: TAMPER INDICATING   | : | TO 37 C.F.R. §§ 1.47(A) AND  |
| CLOSURE WITH FOLDABLE TAB  | : | 1.48(A)                      |

This is in response to the renewed petition under 37 C.F.R. § 1.183 and the two second renewed petitions under 37 C.F.R. §§ 1.47(a)<sup>1</sup> and 1.48(a)<sup>2</sup>. Each of these three petitions was filed on October 25, 2007.

- 
- 1 A grantable petition under 37 C.F.R. §1.47(a) requires:
- (1) the petition fee as set forth in 37 C.F.R. §1.17(g);
  - (2) the surcharge as set forth in 37 C.F.R. §1.16(e), if the petition is not filed at the time of filing the application;
  - (3) a statement of the last known address of the non-signing inventors;
  - (4) either
    - a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
    - b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
  - (5) a declaration which complies with 37 C.F.R. § 1.63.
- 2 A grantable petition under 37 C.F.R. §1.48(a) requires:
- (1) A request to correct the inventorship that sets forth the desired inventorship change;
  - (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in

Original petitions pursuant to Rules §§ 1.47(a) and 1.48 were filed on May 8, 2007. A single decision dismissed each of these petitions was mailed on June 25, 2007.

The petition under 37 C.F.R. § 1.183 and the two renewed petitions under 37 C.F.R. §§ 1.47(a) and 1.48(a) were filed on August 8, 2007 and were dismissed via the mailing of a single decision on September 4, 2007.

This renewed petition pursuant to Rule § 183 is **GRANTED**.

This second renewed petition pursuant to Rule § 1.47(a) is **GRANTED**.

This second renewed petition pursuant to Rule § 1.48(a) is **GRANTED**.

On January 5, 2004, the application was filed, identifying Frederick L. Bixler, Doug Coners, and Don Rochow as joint inventors. The application was deposited without an executed declaration. On October 7, 2004, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice) was mailed, requiring, *inter alia*, a fully executed oath or declaration and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

On May 12, 2005, a partially executed declaration was provided to the Office, along with the surcharge associated with the late submission of the same, and a five-month extension of time. It is noted that the submission contained a certificate of mailing dated May 9, 2005, and that May 7, 2005 fell on a Saturday.

With the present submission, Petitioner has included a declaration that has been signed by formerly non-signing joint inventor Rochow.

The petition pursuant to Rule § 1.183:

Regarding the petition under 37 C.F.R. § 1.183, Petitioner has requested that the requirements of 37 C.F.R. § 1.48 (a)(3) be

---

inventorship occurred without deceptive intention on his or her part;

- (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
- (4) The processing fee set forth in § 1.17(i); and
- (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

waived. Rule § 1.48 (a)(3) requires the submission of an oath or declaration by the actual inventor or inventors. Petitioner wishes to add David F. Krueger as an inventor. Petitioner has supplied the required statement.

The declarations that Petitioner has provided have been executed by each of the joint inventors save Mr. Coners. 37 C.F.R. § 1.48(a)(3) sets forth that an "oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47."

It has been determined that justice requires that the requirement that the Petitioner provide a declaration that has been executed by joint inventor Coners be suspended. As such, the petition under 37 C.F.R. § 1.183 is hereby **GRANTED**, and 37 C.F.R. § 1.48(a)(3) is hereby **WAIVED**, to the extent set forth above.

The second renewed petition pursuant to Rule § 1.47(a):

Petitioner has met each of the five requirements of Rule § 1.47(a), and has submitted all required fees. Therefore, the petition is **GRANTED** and this application is hereby accorded Rule § 1.47(a) status.

As provided in Rule § 1.47, this Office will forward notice of this application's filing to the non-signing inventor at the address given on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The renewed petition pursuant to Rule § 1.48(a):

Petitioner has submitted a request to correct the inventorship that sets forth the desired inventorship change, a statement from the person being added as an inventor that the error in inventorship occurred without deceptive intention on his part, the processing fee set forth in § 1.17(i), and the written consent of the assignee. As set forth above, the requirement that each of the joint inventors execute the declaration has been waived.

Therefore, the petition under 37 C.F.R. § 1.48(a) is **GRANTED**.

A corrected filing receipt has been enclosed with this decision.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225<sup>3</sup>. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski  
Senior Attorney  
Office of Petitions  
United States Patent and Trademark Office

Encl.      Corrected Filing Receipt

---

<sup>3</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.